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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/253,110      02/19/99      JORGENSEN      M      98.03

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QM12/0404

EXAMINER

CHOI, S

ART UNIT

PAPER NUMBER

3724

DATE MAILED:

04/04/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
09/253,110

Applicant(s)  
Jorgensen

Examiner  
Stephen Choi

Group Art Unit  
3724



☒ Responsive to communication(s) filed on Jan 11, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-23 is/are pending in the application.

Of the above, claim(s) 5 and 10-23 is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-4 and 6-9 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Feb 19, 1999 is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### *Election/Restriction*

1. Applicant's election with traverse of Species A, claims 1-9 in Paper No. 4 is acknowledged. The traversal is on the ground(s) that the amended claim 1 is generic to all three species. It is deemed that the amended claim 1 appears to be generic to all three species.
2. Applicant indicated that claims 1-9 are readable on the elected species A. The examiner respectfully disagree. Claim 5 appears to read on Species C, Figure 9.
3. Claims 5, 7(5), 8(7(5)), 9(8(7(5))), 10-23 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected species.

### *Drawings*

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 127, 153. Correction is required.
5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 21, 172, 231, 233, 238L. Correction is required.

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6. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "99A" has been used to designate both a slot and a direction arrow (Fig. 16).  
Correction is required.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-4, 6, 7(1-4, 6), 8(7(1-4, 6)) and 9(8(7(1-4, 6))) are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is indefinite in that it is not clear how the side panels are structurally related to the device. The phrase following the "whereby" language has not been given significant patentable weight because it has been held that the functional "whereby" statement does not define any structure and accordingly can not serve to distinguish.

In claim 2, "the pivot means", "said means" lack positive antecedent basis.

In claims 7 (1-6), "the pivot means" lacks positive antecedent basis.

In claims 7 (1, 3-6), "the splitter" lacks positive antecedent basis.

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***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-4, 6, 7(1-4, 6), 8(7(1-4, 6)) and 9(8(7(1-4, 6))) are rejected under 35

U.S.C. 103(a) as being unpatentable over Vogl et al. in view of Waugh and Auel.

Vogl et al. discloses the invention substantially as claimed including:

- a) a pair of spaced-apart, vertical side panels (31, 34) made of transparent material (col. 3) having a front portion, central and rear portions with a lower edge having a forward terminus (Fig. 4-5);
- b) a pair of vertical side skirts (32, 35) made of transparent material (col. 3) and being movable between a lowered position and a raised position;
- c) a forwardly and upwardly inclined slots (40) at about thirty degrees and means for suspending a side skirts (41, 42);
- d) means for moving the hood between a retracted position and a working position including a single pivot attachment including a slot pin and retainer means (Fig. 2-3) and stop means (37, 38, col. 4, lines 29-33).

Vogl et al. does not disclose a nose panel having a leading and trailing edges, a convexly curved upper cowl having an inclined front portion terminating a tapered forward edge having a

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inclined portion terminating at a rear edge, a convexly curved lower cowl having a front portion terminating in a forward edge, a central and rear portion, an intake port, an orifice, a splitter, a rear discharge wall having an air discharge hole and means for attachment of a vacuum conduit, stop means attached to an upper rear edge. Waugh discloses a device (20) having a housing (22) with a lower surface (24) curved convexly to accommodate the spinning saw blade. The housing (22) being longer than the top surface (17) of the fixed blade guard (11) such that the housing (22) extends beyond the front (12) and rear terminus (13) of the fixed blade guard (11). The housing (22) has an outer surface (26) having a downwardly extending flange (28) which extends beyond and radially inward from the lower surface (24) and having an inner surface (30) which defines a fixed blade guard receiving channel (32) with lower surface (24). A front vacuum aperture (52) is formed through the lower surface (24) near the front end (36) and a rear vacuum aperture (54) is formed through the lower surface (24) near the rear end (40). The lower surface (24), outer surface (26), inner surface (48), and top surface (56) define a vacuum chamber (58) which extends from the rear end (40) to the front end (36). A vacuum source connector (60) is attached to the rear end (40). Auel discloses a forwardly inclined nose (6) and a splitter plate (1) secured to a saw blade and an outer guard having a plurality of openings (11) pivoted to the splitter (1) by a bolt (9). Auel also discloses a pair of upper guards (20) secured to the outer arms (10) and to hold the outer arms (10) in alignment with the guard arm (4) to limit the movement of the wing plate (12). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a dust collecting device as taught by Waugh on Vogl's device

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in order to provide a device served to protect the user and to facilitate removal of sawdust by a directed air stream generated by a saw blade.


***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Federer, Flohr, Green, Kramer, Niehaus et al., Olson '596, '362, Patenaude, Pogue, Smith, Tautz, Thomas.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to S. Choi whose telephone number is (703) 306-4523. The examiner can normally be reached on Tuesday to Friday from 8:30 to 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada, can be reached on (703) 308-2187. The fax phone number for this Group is (703) 305-3579.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

  
M. Rachuba  
Primary Examiner

sc  
March 25, 2000